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SOUTHERN DISTRICT OF NEW YORK

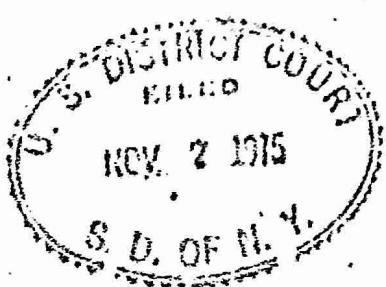
MIDWAY MFG. CO. }
vs. } (CBM)
THE MAGNAVOX COMPANY, ETAL } Civil Action No.
 } 74 CIV 1657
There was entered on the docket November 7th , 1975
an order (judgment)xxx Memorandum Opinion No.43360

• A.O. NO. 145

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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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MIDWAY MFG. CO.,

Plaintiff,

-v-

74 CIV. 1657

THE MAGNAVOX COMPANY and
SANDERS ASSOCIATES, INC.,

#43360

Defendants.

APPEARANCES

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CONSTANCE BAKER MOTLEY, D. J.

MEMORANDUM OPINION AND ORDER

This is a motion by defendant, The Magnavox Company, seeking 1) an order pursuant to 28 U.S.C. § 1404(a) transferring this action to the United States District Court for the Northern District of Illinois, Eastern Division; or 2) an order dismissing the action on the ground that the same issues are involved in The Magnavox Company v. Bally Manufacturing Corporation, et al., 74 C 1030, an action pending in the

Northern District of Illinois; or 3) an order staying any further proceedings in this case pending the outcome of the Illinois action on the ground that the latter case will be substantially determinative of the issues in the case at bar. These motions are denied in all respects.

A party seeking to transfer an action must establish that such a transfer is "in the interest of justice" and that the proposed transferee district is more convenient than the district in which the plaintiff chose to bring his action. See U. S. Industries, Inc. v. The Procter & Gamble Company, 340 F.Supp. 1265, 1268 (S.D.N.Y. 1972) and cases cited therein. Defendants have failed to make such an "appropriate affirmative showing" as would warrant the invocation of this court's discretionary power to transfer this case to Illinois. Defendants contend that the interest of justice requires that this case be transferred. Specifically, they cite a number of factors which, they argue, should receive great weight in assessing the propriety of a transfer. In their view, the pendency of three related actions in different districts, the relative congestion of the court dockets where the cases are to be tried, plaintiff's alleged lack of good faith in detailing East Coast witnesses it plans to call, plaintiff's alleged "forum shopping", the fact that the same